

Case 7:24-cv-00317-DC-RCG MIDLAND-ODESSA DIVISION

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
MIDLAND-ODESSA DIVISION

CONTIQUE WILLCOT,

Plaintiff,

vs.

SECURITIES AND EXCHANGE COMMISSION, et al.,

Defendant

Case No.: 7:24-cv-00317-DC-RCG

PLAINTIFF’S REPLY TO SECURITIES AND
EXCHANGE COMMISSION’S OPPOSITION
TO MOTION TO LIFT PSLRA DISCOVERY
STAY

I. INTRODUCTION

As a pro se Fire Lieutenant and Origin and Cause Fire Investigator, I respectfully reply to the Securities and Exchange Commission’s opposition (Dkt. No. 36) to my Motion to Lift the PSLRA Discovery Stay (15 U.S.C. § 78u-4(b)(3)(B)). My motion seeks Blue Sheets and TRCH/MMTLP data (June 21, 2021–December 12, 2022) to prove market manipulation causing my \$30,000+ loss (Exs. V, W). The SEC misrepresents my spoliation evidence, claiming no destruction risk (Dkt. No. 36 at 4), and dismisses my prejudice claim, ignoring my allegations of their negligence in addressing known fraud (Ex. AA, Ex. AD). Their sovereign immunity defense fails to bar discovery when misconduct is alleged. My investigative diligence, evidenced by detailed exhibits (Exs. A, S, AA, U), meets the PSLRA’s “exceptional circumstances” standard (*In re Cassava Sciences, Inc.*, 2023 WL 28436 (W.D. Tex. 2023)). The SEC’s arguments do not rebut PSLRA criteria or my evidence.

II. PSLRA CRITERIA ARE SATISFIED**A. Evidence Preservation**

The SEC falsely claims no spoliation risk, misrepresenting that a Vermont court denied a Blue Sheet preservation order (Dkt. No. 36 at 4). In *Traudt v. Rubinstein*, 2:24-cv-782, the court granted preservation for June 21, 2021–December 8, 2022 data (Ex. U), confirming spoliation concerns. Ex. AC (FINRA TDDS 2.0 specifications) indicates Blue Sheet records may be lost by January 2027, necessitating expedited discovery to secure trade data critical to proving manipulation (Ex. A at 9: FTD anomalies; Ex. S: GTS's role). The SEC's reliance on FRCP Rule 26(c) and PSLRA preservation (15 U.S.C. § 78u-4(b)(3)(C)) is insufficient, as these do not address the specific 2027 risk (Ex. AC). *SG Cowen Sec. Corp. v. U.S. Dist. Ct.*, 189 F.3d 909, 913 (9th Cir. 1999), supports lifting the stay when evidence faces destruction, as here. My focused request ensures minimal burden while preserving essential data.

B. Undue Prejudice

The stay causes undue prejudice by blocking Blue Sheets needed to substantiate defendants' market manipulation, not to plead claims, risking dismissal (*In re Bank of Am. Corp.*, 2009 WL 4796169 (S.D.N.Y. 2009)). Ex. AA (SEC lawsuit against TRCH executives) confirms fraud the SEC failed to address promptly despite 246 complaints and early awareness (Ex. AD: FOIA emails), contributing to my losses (Exs. V, W: Fidelity, TD Ameritrade statements). Blue Sheets will reveal trade patterns (Ex. S: GTS as sole order destination; Ex. A: 13M share spike), proving the fraud's scope. The SEC's reliance on *SG Cowen* (Dkt. No. 36 at 6) is misplaced, as I seek evidence to support existing allegations (Dkt. No. 3 at 14 ¶ 46, 17 ¶ 70), not to meet pleading standards. *In re Odyssey Healthcare, Inc.*, 2005 WL 1539229 (N.D. Tex. 2005), is inapposite, as my motion targets evidence preservation and proof, not complaint enhancement.

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III. SOVEREIGN IMMUNITY DOES NOT BAR DISCOVERY

The SEC's sovereign immunity defense (Dkt. No. 36 at 6-7) fails, as misconduct voids immunity (*Credit Suisse Sec. (USA) LLC v. Simmonds*, 566 U.S. 221, 227 (2012)). My claim challenges the SEC's negligent failure to act on known TRCH/MMTLP fraud (FAC ¶ 224.c; Ex. AA: SEC lawsuit; Ex. AD: complaints), not merely enforcement discretion (*Heckler v. Chaney*, 470 U.S. 821, 838 (1985)). Discovery is warranted before resolving immunity, as my allegations of regulatory inaction implicate actionable misconduct (*Nieto v. San Perlita Ind. Sch. Dist.*, 894 F.2d 174, 177 (5th Cir. 1990)). The SEC's FINRA oversight discretion (*San Francisco Min. Ex. v. SEC*, 378 F.2d 162, 165 (9th Cir. 1967)) doesn't shield failure to address fraud (Ex. AA). Their antitrust argument (Dkt. No. 36 at 8) is irrelevant, as Blue Sheets target manipulation, not antitrust claims.

IV. DISCOVERY SCOPE IS FOCUSED

Evidence of TRCH fraud, linked to MMTLP, dates to 2019 (Ex. AA), yet I conservatively request data from 2021, ensuring a focused scope aligned with key events (TRCH-MMAT merger, MMTLP listing, halt) (*In re Vivendi Universal*, 381 F. Supp. 2d 129 (S.D.N.Y. 2003)). This restraint addresses overbreadth concerns while capturing essential trade data (Ex. S, Ex. A).

V. CONCLUSION

The SEC's misrepresentations and dismissal of my evidence (Exs. A, S, AA, AD, U) fail to rebut PSLRA criteria. As a pro se investigator, my diligence in uncovering fraud merits leniency (*Haines v. Kerner*, 404 U.S. 519 (1972)). I respectfully request the Court grant my motion to ensure justice.

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PRAYER FOR RELIEF

1. Grant the Motion to Lift the PSLRA Stay.
2. Order expedited Blue Sheet discovery within 30 days.
3. Other just relief.

Respectfully,

/s/ Contique Willcot

Contique Willcot, Pro Se

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CERTIFICATE OF SERVICE

On May 7, 2025, I served this reply via CM/ECF on counsel for all Defendants: SEC (reichere@sec.gov, rosej@sec.gov), FINRA (1735 K St NW, Washington, DC), GTS Securities LLC (lmurphy@mbssmartlaw.com, cjb@williamsbarbermorel.com), Ari Rubenstein (545 Madison Ave, NY), Next Bridge Hydrocarbons (cnewcomer@christianattarlaw.com, jchristian@christianattarlaw.com), John Brda, and Gregory McCabe (jason.hopkins@us.dlpiper.com, jepennington@permian.law).

/s/ Contique Willcot